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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

NOV - 8 2011

Per M. E. P.
DEPUTY CLERK

MATT JONES,

Plaintiff,

v.

MAJOR LORADY, et. al.,

Defendants.

CIVIL ACTION NO. 3:CV-11-666

(Judge Kosik)

MEMORANDUM AND ORDER

AND NOW, this 8th day of November, 2011, IT APPEARING TO THE
COURT THAT:

(1) Plaintiff, Matt Jones, a prisoner confined at the State Correctional Institution at Frackville, Frackville, Pennsylvania, filed the instant civil rights action pursuant to 42 U.S.C. §1983 on April 11, 2011. An Amended Complaint was filed on May 5, 2011 (Doc. 10);

(2) In his Amended Complaint, Plaintiff raises a First and Fourteenth Amendment free exercise of religion claim;

(3) The action was assigned to Magistrate Judge Thomas M. Blewitt for Report and Recommendation;

(4) On October 21, 2011, the Magistrate Judge issued a Report and Recommendation (Doc. 25) wherein he recommended that Plaintiff's claims for monetary damages against Defendants in their official capacities be dismissed; that Plaintiff's Amended Complaint be dismissed with prejudice as against Defendants Beard and Damiter; and that Plaintiff be allowed to proceed against Defendants Lorady, Scheuren, Dudeck, Clark, James, Wenerowicz and Kovalchik with respect to the free exercise of religion claim under the First and Fourteenth Amendment;

(5) Plaintiff has failed to file timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(6) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his claims. 28 U.S.C.A. §636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987);

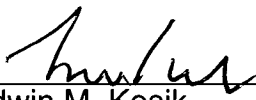
(7) We have considered the Magistrate Judge's Report and we concur with his recommendation. We agree with the Magistrate Judge's finding that Plaintiff has alleged that he had sincerely held religious beliefs prohibiting the shaving of his beard, and that he has sufficiently stated the personal involvement of Defendants Lorady, Scheuren, Dudeck, Clark, James, Wenerowicz and Kovalchik with respect to his free exercise of religion claim under the First and Fourteenth Amendment. We also agree that Plaintiff's claims for monetary damages against Defendants in their official capacities should be dismissed and that Plaintiff's Amended Complaint against Defendants Beard and Damiter should be dismissed with prejudice;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Thomas M. Blewitt dated October 21, 2011 (Document 25) is **ADOPTED**;

(2) The Plaintiff's claim for monetary damages against Defendants in their official capacities is **DISMISSED**; the Amended Complaint is **DISMISSED** with prejudice as to Defendants Beard and Damiter; and

(3) The above-captioned action is **REMANDED** to the Magistrate Judge for further proceedings.



Edwin M. Kosik
United States District Judge